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THE RIGHT TO DEVELOPMENT

Written statement submitted by the American Association of Jurists, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement, which is circulated in accordance with Economic and Social Council Resolution 1996/31.

[25 December 1998]

GE.99-10460 (EXT)

1. On 7 November 1998, the American Association of Jurists issued the following

STATEMENT ON CENTRAL AMERICA

In the face of the disaster that devastated Central America as a result of Hurricane Mitch, causing the death, disappearance or forced displacement of tens of thousands of persons who lost all their possessions, as well as the destruction of most of the region's production installations, the American Association of Jurists expresses its total solidarity with the peoples affected and urges that, in fulfilment of the obligations of humanitarianism and international co-operation imposed by the Charter of the United Nations, article 1, paragraph 3, and the International Covenant on Economic, Social and Cultural Rights, article 1, paragraph 2:

1) International aid be raised to the maximum level and be channelled through the United Nations (Charter, article 1, paragraph 4).

2) A National Commission for Reconstruction be set up in each country affected to ensure transparent management and that those commissions be composed of the Executive and Legislative Branches and workers' organizations, campesino communities, entrepreneurs, academics and other grassroots organizations in order to direct the reconstruction and monitor and channel international aid.

3) The industrialized countries make long-term interest-free loans for reconstruction, since it is their large public-works firms that will most likely profit, as is their wont, from contracts for the works to be done.

4) The foreign debt of the affected countries, El Salvador, Guatemala, Honduras and Nicaragua, be written off.

Álvaro Ramírez President	Vanessa Ramos Secretary-General	Beinusz Szmukler Chairperson, Advisory Board

2. The enormous social consequences of the natural disaster that devastated the countries of Central America once more demonstrated the poorer countries' utter vulnerability to that type of phenomenon, which is naturally linked to the issue of the exercise of the right to development, interpreted as embracing human development, which includes adequate public services, facilities and housing for all inhabitants.

3. The American Association of Jurists has brought into sharp relief the question of foreign debt because, by and large, it is one of the major obstacles to the exercise of the right to development encountered by poor countries.

4. To cite a few examples: between 1990 and 1993, Zambia spent US$ 37 million on primary education, while it paid its international creditors US$ 1.3 billion

over the same period; Uganda spends US$ 1 per capita on health and US$ 9 on payment of its foreign debt; Ghana spends five times more on payment of its foreign debt than it does on its social programmes (The Nation, 10 March 1997).

5. However, it is the Central American countries hurt by the hurricane which can most reasonably invoke the principle of "rebus sic stantibus", which means that the obligation is extinguished and the debtor released from it when fulfilment becomes impossible, exceedingly onerous or essentially different from when the debt was contracted.

6. Furthermore, the origin of the debt must be studied in each individual case, for it is unfair for a country's entire population to be liable for a debt contracted by specific persons (real or imaginary), as has been occurring for some time now in many countries - developed and underdeveloped alike - in application of the principle of privatization of profits and "socialization" of debts. The most recent cases are Mexico, which recently "socialized" a US$ 65 million debt contracted by speculators who have their profits safely hoarded away, and Japan, which "nationalizes" private banks on the verge of collapse.

7. In any event, the debt will never be paid (it continues to increase despite the successive Baker, Brady and other plans) and keeping it alive only imposes on debtor countries a globalization policy that increasingly concentrates wealth on a tiny segment of society worldwide, favouring certain geographical regions.

8. History has shown that countries that have repaid their foreign debt are the exception rather than the rule. As long ago as 1924, Keynes wrote that so numerous, so nearly universal, were the foreign Governments that had defaulted on their external debt, that it was easier to point out those that had not defaulted than those who had. Keynes went on to say that among the countries that had technically defaulted some sought loans abroad in their own currency and allowed that currency to depreciate to less than half its nominal value and sometimes even to a tiny fraction. They include Belgium, France, Italy and Germany (Keynes, Defaults by Foreign Governments). John Kenneth Galbraith (A Journey through Economic Time, 1994) wrote that in the aftermath of the First World War the victors decided that Germany should pay the war debts, including those contracted by France and Great Britain with the United States. With the great Depression of 1929, there was an initial moratorium, and a conference decided in 1932 to reduce the debt substantially. When Hitler ceased repayment of the debt once and for all, France and Great Britain decided that they would not repay theirs to the United States. At present the United States, in addition to exercising "world leadership", is the most indebted country in the world, but this does not make its leaders rest less easy.

9. Weak, poor countries have sound economic and legal reasons for defaulting on their debts, in addition to the example shown them by the rich and powerful.